



Appeal of Stanley and Lou Mitchell

Appellants filed California personal income tax returns for the years 1975 and 1976. In their 1975 return, they claimed a deduction for moving expenses. In their 1976 return, they claimed the benefits of income averaging. Upon examination of the returns, respondent disallowed the moving expense deduction and determined that appellants was not eligible for income averaging. Respondent then issued notices of proposed assessment, with the one for 1975 containing a delinquent filing penalty.

Respondent's determination of tax and penalties are presumptively correct, and the taxpayer has the burden of proving that they are wrong. (See Appeal of K. L. Durham, Cal. St. Bd. of Equal., March 4, 1980). Here appellants have not submitted any information to show that the proposed assessments are erroneous. Instead, appellants have made a variety of frivolous "constitutional" objections to the proposed assessments. (See Appeal of Harry Sievert, Cal. St. Bd. of Equal., April 8, 1980; Appeal of Arthur W. Keech, Cal. St. Bd. of Equal., July 26, 1977.) Under the circumstances, we must sustain respondent's action in this matter.

## Appeal of Stanley and Lou Mitchell

O R D E R

Pursuant to the views expressed in the opinion of the board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to section 18595 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protest of Stanley and Lou Mitchell against a proposed assessment of additional personal income tax and penalty in the total amount of \$78.28 for the year 1975 and a proposed assessment of additional personal income tax in the amount of \$604.60 for the year 1976, be and the same is hereby sustained.

Done at Sacramento, California, this 30th day  
of March, 1981, by the State Board of Equalization,  
with Members Dronenburg, Bennett and Nevins present.

Ernest J. Dronenburg, Jr. , Chairman

William M. Bennett . Member

Richard Nevins Member

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